



Ninety – Sixth Legislature – First Session – 1999
Introducer's Statement of Intent
LB 396

Chairperson: Senator David M. Landis
Committee: Banking, Commerce, and Insurance
Date of Hearing: February 1, 1999

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

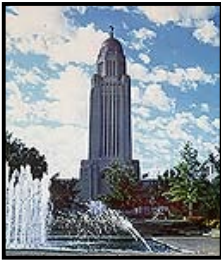
LB 396 is a bill brought on behalf of the Nebraska Department of Banking and Finance to address issues relating to the financial institutions and entities under the jurisdiction of the department. The bill updates and clarifies laws relating to state banks, savings and loan associations, credit unions, installment loan companies, installment sales companies, and mortgage bankers. It also streamlines a number of administrative procedures associated with these institutions.

LB 396 proposes “wild card” legislation for state banks. Under this proposal, state-chartered banks will have the same rights, powers, and privileges as a nationally chartered bank doing business in Nebraska, without the enactment of legislation for each specific power or privilege. This legislation is modeled after annual legislation passed for state-chartered savings and loan associations and credit unions, and will promote parity between the financial institutions doing business in Nebraska. (Section 5)

At the same time, the annual renewal of savings and loan association “wild card” is included within section 12 of the bill. This legislation has been enacted since 1971, and provides equal rights between Nebraska’s state-chartered savings and loan associations and those chartered by the federal government. The legislation is re-enacted annually to forestall any constitutional questions.

Section 7 amends section 8-141 of the Nebraska Banking Act to provide state-chartered banks with an option regarding the lending limits imposed by the statute. Banks will have the ability to choose between the lending limit currently in place and the limit available to nationally chartered banks. The proposal is designed to provide the banks with the flexibility needed to provide adequate lending to their customers, while remaining in a sound position.

Section 8 proposes a change to section 8-143.01, which limits loans to insiders of state-chartered banks. This amendment will authorize a bank’s board of directors to exempt certain licensed officers from a requirement to report debt at other financial institutions. The exemption will only be available to those licensed officers who are excluded from making bank policy. This will promote efficiency in those institutions which have a large number of persons licensed to make loans, but with no ability to make policy.



Ninety – Sixth Legislature – First Session – 1999

Introducer's Statement of Intent

Section 9 restructures the procedure for establishing automatic teller machines (ATMs) and is applicable to all financial institutions. The current application process under section 8-157.01 will be streamlined to that of a prior notice. In addition, the approval process for ATM transactions not directly defined as the business of banking would be shortened to include only a prior notice and objection period. In conjunction with this section, two other amendments are required. First, the Nebraska Credit Union Act is being amended to provide a correcting internal reference (section 20), and the current \$15 fee for establishing an ATM is being removed (section 13).

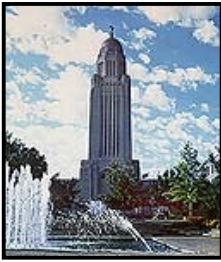
Sections 10 and 21 amend statutes relating to the retention of certain ledgers held by banks and credit unions showing unpaid depositor and accountholder funds. Current law could be interpreted to require retention of these documents permanently, even though the funds have been properly turned over to the State Treasurer. Under LB 396, if an institution remits unclaimed funds, records of that remittance are to be retained for ten years from the date the property is remitted.

Section 14 will reduce the paperwork required when an application is filed to acquire a state bank or trust company, by changing the requirement for 5 years' worth of financials to one year's worth. This change will allow these transactions to be processed in a uniform manner by the department and federal regulators.

Section 15 to 17 authorizes Nebraska state-chartered banks to invest in foreign banker's banks, under conditions virtually identical to currently permitted investments in Nebraska banker's banks. A banker's bank's only customers are other banks. Banks with offices near the borders of the state have expressed interest in doing business with, and investing in, banker's banks which have been chartered by other states.

Section 22 and 23 amend the Nebraska Business Corporation Act to clearly provide that the shareholders of capital stock financial institutions do not have the right to force the financial institution into involuntary bankruptcy. These amendments adopt the holding of a 1998 Nebraska Supreme Court case, *In re Involuntary Dissolution of Battle Creek State Bank*.

Sections 25 to 27 and section 29 propose amendments to the laws governing installment loan companies. These amendments consist of portions of two bills – LB 1179 and LB 1251 – introduced in the 1998 legislature. LB 1179 was a department bill and advanced to General File with Committee amendments consisting of LB 1251 provisions, which was an industry bill. The amendments:



Ninety – Sixth Legislature – First Session – 1999

Introducer's Statement of Intent

- i) authorize the waiver of hearing requirements for installment loan companies which have other Nebraska offices and have demonstrated compliance with Nebraska law;
- ii) mandate an annual examination of licensees rather than semiannual examinations; and
- iii) extend the department's authority regarding fines for violations of the installment loan laws.

Section 28 amends the Nebraska Installment Sales Act to provide a specific contract provision for sellers of goods or services who use sales promotions which waive the payment of interest or time-price differential if payment of the principal is made by a certain day (90 days same as cash). This provision would require that the actual date be set forth within the contract, and that any subsequent purchaser cannot change the date. Buyers of goods will be protected from date imposed by companies which have purchased the contracts.

Sections 30 to 34 propose amendments to the Nebraska Mortgage Bankers Registration and Licensing Act. Sections 30 to 32 include a clarification of the definition of real estate to include only that which is, or will be, affixed to land; the addition of a restriction on the exemption available to agents; and the extension of the exemption for financial institutions to those located outside Nebraska. Section 24 is a concurrent amendment, necessary to continue the current usury exemption for these financial institutions.

Section 33 and 34 provide a more efficient method to terminate a mortgage banker license if the licensee fails to maintain a surety bond. Current law requires full revocation proceedings, including notice of revocation, hearing, and the issuance of a formal order of revocation. The amendment would allow issuance of a notice of cancellation in these circumstances, and would promote efficiency at the department level.

Technical amendments relating to the deposit of public funds are contained in sections 1 to 3, 18, 19, and 35; technical amendments relating to classification of accounts are contained in section 11, and a cross-referencing amendment is contained in section 4.

Principal Introducer:

Senator David M. Landis